

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150  
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES\*\*

APRIL 17, 2002

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President  
William Elkins, Vice President  
Florence Bos, Member  
Sean Harrigan, Member (Present from 1:00 p.m. to  
adjournment)

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board budget was approved by the Senate and Assembly Budget Subcommittees. In the Senate, language was inserted in the State Personnel Board and Department of Personnel Administration budgets requiring a report to the Legislature on the impact of the "Post and Promote" process.
- B. State Personnel Board staff is working with community groups and legislative staff on the

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\*\*The State Personnel Board Summary Minutes can be obtained at the following Internet address:

<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

improvement of the state's bilingual services program and possible legislative initiatives. A follow-up meeting with the group is scheduled for next week.

- C. The current budget crisis and hiring freeze is having an impact on State Personnel Board staff's capacity to complete some of the objectives in the strategic plan. Some of the objectives will be deferred or scaled back to correspond with available resources.
- D. The State Personnel Board's annual report is ready for distribution.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel Reported on:

- A. Young v. Gannon - Court of Appeal has agreed to publish this case in which the Court held, *inter alia*, that Workers's Compensation Administrative Law Judges are subject to the civil service disciplinary process.
- B. Select Advisory Panel on Policy PRID, and Appeals - This group meets on April 30, 2002. Primary agenda topic is discussion of informal survey on Board service issues.
- C. Hearing on International Union of Operating Engineer's contract challenge to State Personnel Board's contract with Kronick Moskowitz has been postponed from May until June Board meeting.

4. REPORT ON LEGISLATION - Judy Balmain  
(Report given by Walter Vaughn, Executive Officer)

The Board was advised of the following:

- A. AB 2034 (Horton) specifies that local community colleges will reimburse the State Personnel Board for costs associated with resolving whistleblower

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complaints and was passed in the Assembly Policy Committee.

B. AB 1950 (Wright) is a State Personnel Board sponsored bill that permits extensions of probations when there is a delay in providing reasonable accommodations, passed the Assembly Policy Committee and is recommended for consent in the Appropriations Committee.

C. State Personnel Board staff responded to several press inquiries concerning the impact on the civil service system of the Connerly initiative eliminating the collection of data on race and gender.

The Board voted on the following:

A. AB 2850 (Firebaugh) will require state agencies, the Attorney General's Office, and the Department of General Services to provide notice to the designated representative of State Employees Bargaining Unit 2 of legal services contracts that state agencies may enter into. **SUPPORT IF AMENDED.**

VOTE: Alvarado, Elkins, Bos - Aye.

#### BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 3, 2002

ACTION: Adopted on April 17, 2002.

VOTE: Alvarado, Elkins, Bos - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On April 17, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

#### PROPOSED DECISIONS

JOHNNIE WALKER, CASE NO'S 01-0318

and 01-0689E  
Appeal from constructive medical  
suspension/denial of reasonable  
accommodation  
Office Assistant (General)  
Department of Transportation  
ACTION: Constructive medical suspension/denial of  
reasonable accommodation granted

MICHAEL ROMINGER, CASE NO. 01-0457  
Appeal from demotion of Special Agent  
Supervisor to Special Agent  
Department of Justice  
ACTION: Demotion modified from Special Agent Supervisor  
to Special Agent for eighteen months

KEVIN A. LUNDY, CASE NO. 01-0584  
Appeal from ten working days suspension  
Energy and Mineral Resources Engineer  
Department of Conservation  
ACTION: Ten working days suspension modified to five  
working days suspension

MICHAEL A. STEINER, CASE NO. 01-1652  
Appeal from 20 working days suspension  
State Traffic Officer  
Department of California Highway Patrol  
ACTION: 20 working days suspension sustained

PATRICIA SELF, CASE NO. 01-1725  
Appeal from rejection during  
probationary period  
Vocational Instructor (Upholstering)  
Correctional Facility  
Jamestown - Sierra Conservation Center  
Department of Corrections  
ACTION: Rejection during probation affirmed and appeal  
denied

BARBARA OLSON, CASE NO. 01-2506  
Appeal from retaliation  
Office Assistant  
Trade and Commerce Agency  
ACTION: Appeal from retaliation complaint denied

MINERVA MARTINEZ DANIEL, CASE NO. 01-1956

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Appeal from dismissal  
Principal Driver Safety Officer  
Department of Motor Vehicles  
ACTION: Dismissal sustained

ELIZABETH BUENO, CASE NO. 01-3520  
Appeal from dismissal  
Office Assistant II  
Hollister - Health and Human Services Agency  
County of San Benito  
ACTION: Dismissal sustained

GILBERT FERNANDEZ, CASE NO. 01-3699  
Appeal from demotion of Workers Compensation  
Insurance Supervisor II to  
Workers Compensation Claims Adjuster Range C  
State Compensation Insurance Fund  
ACTION: Board adopted the decision of the Administrative  
Law Judge but modified the penalty to a temporary one-  
year demotion

FRANK FUENTES, CASE NO. 01-2428  
Appeal from dismissal  
Correctional Lieutenant  
Corona - California Institution for Women  
Department of Corrections  
ACTION: Dismissal modified to five working days  
suspension

MARK JOHNSON, CASE NO. 01-1514  
Appeal from dismissal  
Janitor  
Department of General Services  
ACTION: Dismissal sustained

BILLY REEVES, CASE NO. 01-3873  
Appeal from ten percent reduction in salary for six pay  
periods  
Security Guard

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Fremont - California School for the Blind

Department of Education

ACTION: The Board sustained the 10% reduction in salary for six pay periods

JANIS TAYLOR, CASE NO. 00-3268B

Appeal from backpay from granting of merit issue complaint

Staff Services Analyst (General)

Department of Health Services

ACTION: The Board granted the department's request to limit the back-pay period to setoff appellant's backsalary and back vacation credits, and granted the appellant sick leave credits, retirement, and benefits

PETITIONS FOR REHEARING

JON HENDERSON, CASE NO. 01-2657P

Appeal from dismissal

Psychiatric Technician

Eldridge - Developmental Center

Department of Developmental Services

ACTION: Petition for rehearing filed by respondent denied

TIMOTHY EBO, CASE NO. 01-3704P

Appeal from dismissal

Warehouse Worker

Department of Fire and Forestry Protection

ACTION: Petition for rehearing filed by appellant granted and remanded to the Chief Administrative Law Judge

SUSAN E. LINDSAY, CASE NO. 01-1608P

Appeal From Rejection During

Probationary Period

Assistant Caltrans Administrator

Department of Transportation

ACTION: Petition for rehearing filed by appellant denied

STIPULATION FOR SETTLEMENT

TONY ELMORE, CASE NO. 01-2270

Appeal from rejection during probation

Assistant Caltrans Administrator

Department of Transportation

ACTION: Stipulation for settlement approved

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 15-18.

8. WITHHOLD APPEALS

On April 17, 2002, the Board adopted the following  
decisions presented by Walter Vaughn, Executive Officer,  
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

JORGE HERNANDEZ, CASE NO. 01-2008  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JAY HILGERS, CASE NO. 01-2670  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

LEMAY HUNTZINGER, CASE NO. 01-2123  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

KAMAL ISTAPHANOUS, CASE NO. 01-2858  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DANICA JACKSON, CASE NO. 01-2014  
Classification: Motor Vehicle Field Representative  
Department of Motor Vehicles  
ACTION: DENIED

ERIKA KNIPPEL, CASE NO. 01-1301  
Classification: Correctional Officer  
Department of Corrections

ACTION: DENIED

APOLINARIO LANOZA, CASE NO. 01-2129  
Classification: Youth Correctional Officer  
Department of the Youth Authority  
ACTION: DENIED

MARK LEARN, CASE NO. 01-2324  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

STEVEN LONG, CASE NO. 01-2296  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

JASON LOZA, CASE NO. 01-2773  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

INEZ MARTINEZ, CASE NO. 01-1577  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

LANCE NIEVES, CASE NO. 01-332  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DISMISSED  
DEANNE RAYMOND, CASE NO. 01-3183  
Classification: Medical Technical Assistant (CF)  
Department of Corrections  
ACTION: DENIED

DANIEL RODRIGUEZ, CASE NO. 01-2276  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DAVID VERNON, CASE NO. 01-3032  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED



AARON WYLEY, CASE NO. 01-1560  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

9. MEDICAL APPEALS

On April 17, 2002, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

GILBERT MENDEZ, CASE NO. 01-1231  
Classification: Cadet, CHP  
State Personnel Board  
ACTION: DENIED

BETTY ROCHELLE, CASE NO. 01-3327  
Classification: Janitor  
Department of Mental Health  
ACTION: GRANTED

JACOB WARNER, CASE NO. 02-0594  
Classification: Cadet, CHP  
State Personnel Board  
ACTION: GRANTED

10. MERIT ISSUE COMPLAINTS

On April 17, 2002, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

(Merit Issue Complaint)

ANN BERGEN, CASE NO. 00-1793  
Classification: Office Technician (T)  
Department of General Services  
ACTION: DENIED

11. REQUEST TO FILE CHARGES CASES  
PETITIONS FOR REHEARING CASES

On April 17, 2002, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

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VOTE: Alvarado, Elkins, Bos - Aye.

(Request to File Charges)

JULIUS ENGEL, CASE NO. 01-1378

Classification: A member of the public

ACTION: DENIED

FRANCIS LABLANC, CASE NO. 01-0832

Classification: A civil detainee presently housed at  
Atascadero State Hospital

Department of Mental Health

ACTION: DENIED

(Petition for Rehearing)

(Group Appeal)

MINDY LOVEL, CASE NO. 01-0348P;

JOSEPH MOORE, 00-3002P

Classification: Caltrans Highway Maintenance Worker

JOELLE DAVI, 01-0703P; BONNIE FASSLER,

01-0298P; FRANK GRIMES, 00-4277P; LAKEISHA JOHNSON,

01-0082P; SAMANTHA MCNEELY, 00-3854P; JEANNETTE NELSON,

01-0342P; SANDRA NESBIT, 01-0840P; TRAVIS PHILMLEE,

01-0517P; DEANTE PIGGEE, 01-0724P; STEPHANIE SMITH,

01-0847P; LOUIS WILLIAMS, 01-0349P

Classification: Motor Vehicle Field Representative

Departments of Transportation and Motor Vehicles

ACTION: WITHDRAWN

12. NON-HEARING CALENDAR

On April 17, 2002, the State Personnel Board adopted item "A." This item was presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

A. YOUTH AUTHORITY ADMINISTRATOR, COMMUNITY AND STAFF SERVICES

BOARD COORDINATING PAROLE AGENT

The Youthful Offender Parole Board, with the approval of the Department of the Youth Authority, proposes to revise the classification specification of the Youth Authority Administrator, Community and Staff Services to add an additional pattern to the

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minimum qualifications to allow experience as a Board Coordinating Parole Agent.

13. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. BOUNDARY DETERMINATION OFFICER  
BOUNDARY DETERMINATION TECHNICIAN  
The California State Lands Commission proposes revisions to the series specification for Boundary Determination Officer and Alternate Range Criteria 102 for the Boundary Determination Technician.
- B. PRINCIPAL TRANSPORTATION ENGINEER, CALTRANS  
ELECTRICAL ENGINEER  
MECHANICAL ENGINEER  
CIVIL ENGINEER  
The Department of Transportation proposes a revision to the Principal Transportation Engineer, Caltrans specification to broaden the minimum qualifications to include registration as an electrical or a mechanical engineer, in addition to the current Civil Engineer, as meeting the requirements for this class.

ACTION: Noted

14. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION
  - (1) BUREAU CHIEF, ADMINISTRATIVE SERVICES BUREAU  
Standards and Training proposes to The Commission on Peace Officer allocate the above position to the CEA category. The Bureau Chief, Administrative Services Bureau has full management and supervisory responsibility for the Administrative Services Bureau. The incumbent serves as the Chief Administrative Officer and has responsibility for the full range of administrative services, administering the functions through subordinate managers,

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Reimbursement, Professional Certificate and Compliance Programs. The department indicates that the position is at the third organizational level and will report to the Assistant Executive Director, Administrative Services Division.

- (2) DIRECTOR, AUDITS AND INVESTIGATIONS DIVISION  
The California Department of Education proposes to allocate the above position to the CEA category. The Director, Audits and Investigations Division, is responsible for developing and establishing policies for statewide audit and investigation functions and technical assistance to non-profit agencies receiving federal or state child nutrition funding, including policies for non-profit and Certified Public Accountants on reporting results of child development program, child and adult nutrition program, and adult education program funding. The CEA also plans, coordinates, directs, and oversees the comprehensive internal and external audit and investigation function within the Department of Education, as well as audit response coordination with state and federal regulatory agencies. The department indicates that the position is at the third organizational level will report to the General Counsel, Legal and Audits Branch.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. State Personnel Board proposes regulations to clarify and codify the process for filing, processing, hearing, and deciding complaints of Whistleblower Retaliation in State Service. (Hearing held February 7, 2002).

NO ACTION

2. State Personnel Board proposes regulations to clarify the Discovery Process that will apply to evidentiary hearings 1. concerning specified complaints or appeals, in some cases also involving alleged discrimination or retaliation. (Hearing held February 7, 2002).

NO ACTION

3. EVELYN YOUNG, CASE NO. 00-3017. Request to File Charges Appeal. Classification: Supervising Governmental Auditor I, Department of Aging. (Presented to Board February 8, 2002).

NO ACTION

4. STATE PERSONNEL BOARD STAFF'S REPORT ON THE STATUS OF THE STATE DISCRIMINATION COMPLAINT PROCESS. (Hearing held March 5, 2002).

NO ACTION

5. PSC NO. 01-09 (DPR)  
Appeal of the Department of Pesticide Regulation (DPR) from the Executive Officer's November 8, 2001, Disapproval of Personal Services Contracts (Contracts) with PTRL West, Inc., Agricultural and Priority Pollutants Laboratories, Inc., and Battelle Memorial Institute, in response to the request for review submitted by the California Association of Professional Scientists (CAPS). (Hearing held March 5, 2002).

ACTION: On April 17, 2002, adopted Board decision disapproving contract.

VOTE: Alvarado, Elkins, Bos - Aye.

6. MARTIN GREENHALGH, CASE NO. 01-1055. Appeal from five-percent reduction in salary for 12 months. Department of Corrections. (Hearing held March 5, 2002).

NO ACTION

7. PETE REECE, CASE NO. 00-1605. Appeal from denial of request for reasonable accommodation. Department of State Compensation Insurance Fund. (Hearing held March 5, 2002).

NO ACTION

8. EVELYN YOUNG, CASE NO. 00-3016. Appeal from 15 working days suspension. Department of Aging. (Hearing held March 5, 2002).

NO ACTION

9. SENIOR VOCATIONAL REHABILITATION COUNSELOR (SAFETY)  
The Department of Mental Health proposes to establish the class of Senior Vocational Rehabilitation Counselor (Safety) to define public protection duties performed and the special physical characteristics required of incumbents; and establishment of a 12-month probationary period. (Presented March 19, 2002).

NO ACTION

10. MIKE DORRI, CASE NO. 00-2927. Appeal from rejection during probationary period. Department of Transportation. (Hearing held April 3, 2002).

NO ACTION

WITHDRAWN CASES

1. ARCHER LEVY, CASE NO. 01-1314. Appeal from withhold.  
Classification: Correctional Officer. Department of  
Corrections. (Presented January 8, 2002).
2. JOSE ZALDY OBAR, CASE NO. 01-0302. Appeal from withhold.  
Classification: Correctional Officer. Department of  
Corrections. (Presented January 8, 2002).
3. FRANK ROSA, CASE NO. 01-0629. Appeal from withhold.  
Classification: Youth Correctional Officer. Department  
of the Youth Authority. (Presented January 23, 2002).
4. MINDY LOVEL, CASE NO. 01-0348P; JOSEPH MOORE, 00-3002P.  
Appeal from withhold.  
Classification: Caltrans Highway Maintenance Worker.  
Department of Transportation. (Presented September 6,  
2001).  
JOELLE DAVI, 01-0703P; BONNIE FASSLER, 01-0298P; FRANK  
GRIMES, 00-4277P; LAKEISHA JOHNSON, 01-0082P; SAMANTHA  
MCNEELY, 00-3854P; JEANNETTE NELSON, 01-0342P; SANDRA  
NESBIT, 01-0840P; TRAVIS PHILMLEE, 01-0517P; DEANTE  
PIGEE, 01-0724P; STEPHANIE SMITH, 01-0847P; LOUIS  
WILLIAMS,  
01-0349P. Appeal from withhold.  
Classification: Motor Vehicle Field Representative.  
Department of Motor Vehicles. (Presented April 17, 2002)

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.



Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 17, 2002.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Alvarado, Elkins, Bos - Aye.

**CORRECTION**

1. The following equity resolution for Richard M. Lopes (Non-Hearing Calendar item "C") was adopted at the March 19, 2001, Board meeting and was inadvertently omitted from those Summary Minutes: